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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE ACTOS DIRECT PURCHASER  
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL DIRECT PURCHASER ACTIONS

Master File No. 1:15-cv-03278-RA-SDA

IN RE ACTOS END-PAYOR ANTITRUST  
LITIGATION

THIS DOCUMENT RELATES TO:

ALL END-PAYOR ACTIONS

Master File No. 1:13-cv-09244-RA-SDA

**STIPULATION AND ORDER ON DISCOVERY PROTOCOLS**

The parties to *In re ACTOS Direct Purchaser Antitrust Litigation*, No. 15-cv-03278 (the “DPP action”) and *In re ACTOS End-Payor Antitrust Litigation*, 13-cv-09244 (the “EPP action”) (collectively, the DPP action and EPP action are referred to as the coordinated actions) submit this [proposed] stipulation to (1) make certain changes to the order governing protocol for discovery of electronically stored information and hard copy documents entered in the EPP action [Dkt #193] (the “ESI order”); and (2) adopt the ESI order and certain other discovery protocols previously entered in the EPP action in the DPP action.

WHEREAS, on March 18, 2015, this Court adopted a stipulated protective order in the EPP action [Dkt #190] (the “protective order”);

WHEREAS, on March 18, 2015 this Court adopted a stipulation and order regarding certain expert witness discovery in the EPP action [DKT #191] (the “expert stipulation”);

WHEREAS, on March 18, 2015, this Court adopted an order governing protocol for discovery of electronically stored information and hard copy documents in the EPP action [Dkt #193] (the ESI order);

WHEREAS, the parties in the DPP action desire to adopt the protective order and expert stipulation for use in the DPP action;

WHEREAS, the parties in the DPP action desire to adopt, with two minor changes, the ESI order for use in the DPP action;

WHEREAS, the parties in the EPP action desire to incorporate the same two changes agreed to in the DPP action to their ESI order;

NOW, THEREFORE, IT IS STIPULATED by and between the parties to the DPP action and the EPP action through their undersigned counsel that:

- (1) The terms of the protective order entered in the EPP action [Dkt #190] shall also govern in the DPP action;
- (2) The terms of the expert stipulation entered in the EPP action [Dkt #191] shall also govern in the DPP action;
- (3) The terms of the ESI order entered in the EPP action [Dkt #193] are amended as follows:

(a) The final paragraph of Section A, Scope, shall be struck in its entirety and replaced with the following (the italicized text reflecting additional language being added):

Nothing in this Protocol alters a party's rights, obligations, and responsibilities under the applicable Federal Rules of Civil Procedure, nor does anything in this Protocol impose burdens beyond those imposed by the Federal Rules of Civil Procedure. *To the extent there is a conflict between this Protocol and the Federal Rules of Civil Procedure and/or the Local Rules of this Court, those rules shall control.* The parties reserve all objections under the Federal Rules of Civil Procedure for matters relating to the production of ESI and hard copy documents.

(b) The language of Section F.3.k., Redactions, shall be struck in its entirety and replaced with the following:


To the extent that a responsive document contains (a) privileged content or (b) non-responsive Highly Confidential content (as that term is defined in the Stipulated Protective Order), the Producing Party may produce that document in a redacted form. Any redactions made pursuant to (b) above shall be made sparingly, and only if doing so would not impair the readability of the document. Where a document contains (x) privileged content, or (y) non-responsive Highly Confidential content for which redaction is necessary, and (z) non-privileged responsive content, the Producing Party shall redact the privileged and/or Highly Confidential non-responsive content and produce the remainder of the document. If there is a dispute about the propriety of

redactions made pursuant to this paragraph, the parties will meet and confer in good faith.

(4) The so-amended ESI order shall govern in both the DPP action and the EPP action.

SO ORDERED:

December 18, 2019

  
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Stewart D. Aaron, U.S.M.J.

Dated: December 17, 2019

Respectfully submitted,

/s/ Steven A. Reed

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